

(b) No proceeding in court without assessment for the collection of any tax shall be begun after the expiration of the applicable period for the assessment of such tax.

(26 U.S.C. 6501)

[T.D. ATF-251, 52 FR 19314, May 22, 1987. Redesignated by T.D. ATF-301, 55 FR 47606, Nov. 14, 1990]

§ 70.222 Time return deemed filed for purposes of determining limitations.

(a) *Early Return.* Any return filed prior to the last day prescribed by law or regulations for the filing thereof (determined without regard to any extension of time for filing) shall be considered as filed on such last day.

(b) *Returns executed by regional directors (compliance) or other ATF officers.* The execution of a return by a regional director (compliance) or other authorized officer or employee of the Bureau of Alcohol, Tobacco and Firearms under the authority of section 6020(b) of the Internal Revenue Code shall not start the running of the statutory period of limitations on assessment and collection.

(26 U.S.C. 6501)

[T.D. ATF-251, 52 FR 19314, May 22, 1987. Redesignated by T.D. ATF-301, 55 FR 47606, Nov. 14, 1990]

§ 70.223 Exceptions to general period of limitations on assessment and collection.

(a) *False return.* In the case of a false or fraudulent return with intent to evade any tax, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time after such false or fraudulent return is filed.

(b) *Willful attempt to evade tax.* In the case of a willful attempt in any manner to defeat or evade any tax imposed by provisions of 26 U.S.C. enforced and administered by the Bureau, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(c) *No return.* In the case of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time after

the date prescribed for filing the return.

(d) *Extension by agreement.* The time prescribed by 26 U.S.C. 6501 for the assessment of any tax imposed by provisions of 26 U.S.C. enforced and administered by the Bureau may, prior to the expiration of such time, be extended for any period of time agreed upon in writing by the taxpayer and the regional director (compliance) or the Chief, Tax Processing Center. The extension shall become effective when the agreement has been executed by both parties. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(26 U.S.C. 6501)

[T.D. ATF-251, 52 FR 19314, May 22, 1987. Redesignated and amended by T.D. ATF-301, 55 FR 47606, 47641, Nov. 14, 1990; T.D. ATF-331, 57 FR 40328, Sept. 3, 1992]

§ 70.224 Collection after assessment.

(a) *Length of period—(1) General rule.* In any case in which a tax has been assessed within the statutory period of limitation properly applicable thereto, a proceeding in court to collect such tax may be begun, or levy for the collection of such tax may be made, within 6 years after the assessment thereof.

(2) *Extension by agreement.* (i) The 6-year period of limitation on collection after assessment of any tax may, prior to the expiration thereof, be extended for any period of time agreed upon in writing by the taxpayer and the regional director (compliance). Whenever necessary to protect the revenue, the Chief, Tax Processing Center may also execute a written agreement with the taxpayer to extend the period of limitation. The extension shall become effective upon execution of the agreement by both the taxpayer and the regional director (compliance) or the Chief, Tax Processing Center.

(ii) The period of limitation on collection after assessment of any tax (including any extension of such period) may be extended after the expiration thereof if there has been a levy on any part of the taxpayer's property prior to such expiration and if the extension is

agreed upon in writing prior to a release of the levy under the provisions of 26 U.S.C. 6343. An extension under this paragraph has the same effect as an agreement made prior to the expiration of the period of limitation on collection after assessment, and during the period of the extension collection may be enforced as to all property or rights to property owned by the taxpayer whether or not seized under the levy which was released.

(iii) Any period agreed upon under the provisions of paragraph (a)(1) of this section may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(3) If a timely proceeding in court for the collection of a tax is commenced, the period during which such tax may be collected by levy shall be extended and shall not expire until the liability for the tax (or a judgment against the taxpayer arising from such liability) is satisfied or becomes unenforceable.

(b) *Date when levy is considered made.* The date on which a levy on property or rights to property is made is the date on which the notice of seizure provided in 26 U.S.C. 6335(a) is given.

(26 U.S.C. 6502)

[T.D. ATF-301, 55 FR 47641, Nov. 14, 1990]

§ 70.225 Suspension of running of period of limitation; assets of taxpayer in control or custody of court.

Where all or substantially all of the assets of a taxpayer are in the control or custody of the court in any proceeding before any court of the United States, or any State of the United States, or the District of Columbia, the period of limitations on collection after assessment prescribed in 26 U.S.C. 6502 is suspended with respect to the outstanding amount due on the assessment for the period such assets are in the control or custody of the court, and for 6 months thereafter.

(26 U.S.C. 6503)

[T.D. ATF-301, 55 FR 47642, Nov. 14, 1990]

§ 70.226 Suspension of running of period of limitation; taxpayer outside of United States.

The running of the period of limitations on collection after assessment prescribed in 26 U.S.C. 6502 (relating to collection after assessment) is suspended for the period during which the taxpayer is absent from the United States if such period is a continuous period of absence from the United States extending for 6 months or more. In a case where the running of the period of limitations has been suspended under the first sentence of this paragraph and at the time of the taxpayer's return to the United States the period of limitations would expire before the expiration of 6 months from the date of the taxpayer's return, the period of limitations shall not expire until after 6 months from the date of the taxpayer's return. The taxpayer will be deemed to be absent from the United States for purposes of this section if the taxpayer is generally and substantially absent from the United States, even though the taxpayer makes casual temporary visits during the period.

(26 U.S.C. 6503)

[T.D. ATF-301, 55 FR 47642, Nov. 14, 1990]

§ 70.227 Suspension of running of period of limitation; wrongful seizure of property of third party.

The running of the period of limitations on collection after assessment prescribed in 26 U.S.C. 6502 (relating to collection after assessment) shall be suspended for a period equal to a period beginning on the date property (including money) is wrongfully seized or received by a regional director (compliance) and ending on the date 30 days after the date on which the regional director (compliance) returns the property pursuant to 26 U.S.C. 6343(b) (relating to authority to return property) or the date 30 days after the date on which a judgment secured pursuant to 26 U.S.C. 7426 (relating to civil actions by persons other than taxpayers) with respect to such property becomes final. The running of the period of limitations on collection after assessment shall be suspended under this section only with respect to the amount of